

ESTTA Tracking number: **ESTTA962478**

Filing date: **03/25/2019**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	H-D U.S.A., LLC
Granted to Date of previous extension	03/24/2019
Address	3700 W Juneau Ave Milwaukee, WI 53224 UNITED STATES

Attorney information	Adraea M Brown 3700 W Juneau Ave Milwaukee, WI 53208 UNITED STATES adraea.brown@harley-davidson.com, trademarkdocketing@harley-davidson.com 414-343-7313
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Applicant Information

Application No	87881714	Publication date	09/25/2018
Opposition Filing Date	03/25/2019	Opposition Period Ends	03/24/2019
Applicants	DILLARD, SHARON- KAYE 2655 S.RIMPAU BLVD LOS ANGELES, CA 90016 UNITED STATES HARPER, LENEZIA 527 W. Regent St., Ste. 123 Inglewood, CA 90301 UNITED STATES		


Goods/Services Affected by Opposition

Class 035. First Use: 2013/05/01 First Use In Commerce: 2013/09/16 All goods and services in the class are opposed, namely: Charitable services, namely, coordination of the procurement and distribution of food, clothing, toiletries, school supplies for the homeless, less fortunate kids and people in need
Class 041. First Use: 2013/05/01 First Use In Commerce: 2013/09/16 All goods and services in the class are opposed, namely: Social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for club members

Grounds for Opposition


Priority and likelihood of confusion	Trademark Act Section 2(d)
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Marks Cited by Opposer as Basis for Opposition


U.S. Registration No.	1660539	Application Date	11/15/1989
Registration Date	10/15/1991	Foreign Priority Date	NONE
Word Mark	HARLEY-DAVIDSON MOTOR CYCLES		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 008. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 KNIVES; NAMELY, BUCK KNIVES, SPORTING AND HUNTING KNIVES, FOLDING POCKET KNIVES, KNIFE CASES THEREFOR, AND TOOL KITS COMPRISING WRENCHES AND PLIERS</p> <p>Class 009. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 SUNGLASSES, AND MOTORCYCLE PARTS; NAMELY, GAUGES, [IGNITION MODULES, WIRING TURN SIGNALS,] BATTERIES, CRUISE CONTROLS[, AND VACUUM SWITCHES]</p> <p>Class 011. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 FLASHLIGHTS</p> <p>Class 012. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 MOTORCYCLES AND MOTORCYCLE PARTS; NAMELY, [HORNS,] AIR CLEANERS, DRIVE BELTS,BELT GUARDS, BRAKES, [BRAKE CALIPERS, BRAKE CONTROLS, CAM GEARS,] CHAINS, [CHOKES, DRIVE TRAINS,] CLUTCHES [AND CLUTCH CONTROLS], [CONNECTING RODS, ROCKER ARM COVERS,] CRANKCASES, ENGINE CYLINDERS, [EXHAUST SYSTEM PARTS,] FENDERSAND FENDER SUPPORTS, [FLYWHEELS,] FOOT-BOARDS, FORKS, [FORK ROCKERS, FRAME PARTS,] FUEL TANKS, LEG GUARDS, [GEAR SHIFTERS,] HANDLEBARS, CYLINDER HEADS, MIR-RORS, OIL FILTERS, OIL PUMPS, [OIL TANKS, PUSH RODS, ROCKER ARMS,] SEATS, SHOCK ABSORBERS, BACKRESTS, [STABILIZER LINKS, TAPPETS, THROTTLE CONTROLS, VALVES,] WHEELS, AND WINDSHIELDS</p> <p>Class 014. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 ANKLE BRACELETS, BRACELETS, EARRINGS, NECKLACES, RINGS, TIE TACKS, WATCH BANDS,WATCHES, WALL CLOCKS, ORNAMENTAL LAPEL PINS [, AND STICK PINS]</p> <p>Class 016. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 BOOKS ABOUT MOTORCYCLES, CALENDARS, DECALS, PENS, PHOTO</p>		

	<p>ALBUMS, POSTERS, AND REMOVABLE TATTOOS</p> <p>Class 018. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 HOLDERS FOR CANS IN THE NATURE OF A RUBBER CYLINDER, DUFFLE BAGS, GARMENT BAGS,[KEY CASES,] KEY FOBs, [DENIM PURSES,] SUITCASES, AND WALLETS</p> <p>Class 020. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 WALL MIRRORS AND WALL PLAQUES</p> <p>Class 021. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 [PEWTER DECANTERS,] DRINKING GLASSES,MUGS, [PEWTER DRINK- ING STEINS, SHAVINGBRUSHES, SHAVING MUGS,] AND CAN HOLDERS IN THE NATURE OF AN INSULATED RUBBER CYLINDER</p> <p>Class 024. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 TOWELS</p> <p>Class 025. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 BELTS, [DECORATIVE BOOT STRAPS, LEATHER BANDANAS, BOOT TIPS,] CHAPS, [COVERALLS,] DENIM PANTS, GLOVES, [HALTER TOPS,] HATS, CAPS, [HEEL GUARDS, HEEL SPURS,] JACKETS, NECKTIES, [NIGHT GOWNS,] NIGHT SHIRTS, PANTS, RAIN SUITS, SHIRTS, SOCKS, [SOLE PLATES,] SUSPENDERS, SWEATERS, SWEATSHIRTS, TANK TOPS, ATHLETIC SHOES, SHOES, BOOTS, T-SHIRTS, UNDERWEAR, VESTS, AND WRISTBANDS</p> <p>Class 026. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 BELT BUCKLES NOT MADE OF PRECIOUS METAL, BOOT CHAINS, AND EMBROIDERED PATCHES FOR CLOTHING</p> <p>Class 027. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 AUTOMOBILE FLOOR MATS</p> <p>Class 028. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 TOY TRUCKS</p> <p>Class 032. First use: First Use: 1983/02/00 First Use In Commerce: 1983/02/00 BEER</p> <p>Class 034. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 LIGHTER HOLDERS, [ASHTRAYS,] CIGARETTE CASES, LIGHTER CASES, LIGHTERS, [SNUFF CAN HOLDERS,] ALL OF THE FOREGOING NOT BE- ING MADE OF PRECIOUS METAL [, AND CIGARETTES]</p>
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U.S. Registration No.	4221463	Application Date	02/20/2012
Registration Date	10/09/2012	Foreign Priority Date	NONE
Word Mark	HARLEY-DAVIDSON MOTOR CYCLES		


Design Mark			
Description of Mark	The mark consists of the wording "HARLEY-DAVIDSON MOTOR CYCLES" and the design elements of a shield with a bar in the middle. The words "Motor Cycles" appear in the shield design and the words "Harley-Davidson" appear in the bar design.		
Goods/Services	<p>Class 041. First use: First Use: 1989/12/31 First Use In Commerce: 1989/12/31 Education and entertainment services, namely, providing educational presentations, exhibitions, and guided informational museum and factory tours related to the experience of motorcycling</p> <p>Class 043. First use: First Use: 1990/07/19 First Use In Commerce: 1990/07/19 Restaurant services</p>		
U.S. Registration No.	3058720	Application Date	05/07/2004
Registration Date	02/14/2006	Foreign Priority Date	NONE
Word Mark	HARLEY-DAVIDSON MOTOR CYCLES		


Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 1981/00/00 First Use In Commerce: 1981/00/00 Retail store services and distributorships in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods; rendering technical assistance in the establishment, operation, and business promotion of retail stores; retail store services in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods therefor via a global computer network; dealerships in the fields of motorcycles, motorcycle parts and accessories, footwear, clothing, jewelry, and leather goods		
U.S. Registration No.	1913992	Application Date	07/29/1994
Registration Date	08/22/1995	Foreign Priority Date	NONE
Word Mark	NONE		


Design Mark	
Description of Mark	NONE
Goods/Services	Class 042. First use: First Use: 1990/07/00 First Use In Commerce: 1990/07/00 restaurant and bar services

U.S. Registration No.	2376674	Application Date	09/28/1998
Registration Date	08/15/2000	Foreign Priority Date	NONE
Word Mark	NONE		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 006. First use: First Use: 1996/00/00 First Use In Commerce: 1996/00/00 METAL LOCKS Class 007. First use: First Use: 1997/00/00 First Use In Commerce: 1997/00/00 MOTORCYCLE PARTS, NAMELY, SPARK PLUGS Class 009. First use: First Use: 1988/00/00 First Use In Commerce: 1988/00/00 OPTICAL AND SAFETY EQUIPMENT, NAMELY, SUNGLASSES AND MO-		

	<p>TORCYCLE HELMETS</p> <p>Class 012. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 MOTORCYCLE PARTS, namely, MIRRORS, [CHAINS,] DRIVE BELTS MADE OF RUBBER, SWING ARM PIVOT COVERS, AXLE NUT COVERS, HAND-GRIPS, OIL PUMP COVERS, AIR CLEANER COVERS, DERBY COVERS, CALIPER COVERS, SEATS, BRAKE PEDALS, MOTORCYCLE SADDLE-BAGS, SADDLEBAG LINERS, TIMER COVERS AND FENDER TIPS</p> <p>Class 014. First use: First Use: 1992/00/00 First Use In Commerce: 1992/00/00 JEWELRY</p> <p>Class 018. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 LEATHER GOODS, NAMELY TRAVELING BAGS AND SADDLERY</p> <p>Class 025. First use: First Use: 1990/00/00 First Use In Commerce: 1990/00/00 LEATHER GLOVES</p>
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U.S. Registration No.	3548003	Application Date	12/19/2007
Registration Date	12/16/2008	Foreign Priority Date	NONE
Word Mark	HARLEY-DAVIDSON MOTOR CYCLES		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 018. First use: First Use: 2000/04/00 First Use In Commerce: 2000/04/00 Leather and imitations of leather, and goods made of these materials, namely, dog clothing		

U.S. Registration No.	5023464	Application Date	04/09/2015
Registration Date	08/16/2016	Foreign Priority Date	NONE
Word Mark	H O G		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2014/01/00 First Use In Commerce: 2014/01/00		

	Club services, namely, promoting the interests of motorcyclists and the sport of motorcycling		
U.S. Registration No.	4951768	Application Date	10/17/2013
Registration Date	05/03/2016	Foreign Priority Date	NONE
Word Mark	HOG HARLEY OWNERS GROUP		
Design Mark			
Description of Mark	The mark consists of an eagle with spread out wings, holding the word "HOG" in its claws. A shield and a horizontal bar appear inside the letter "O" of the word "HOG". A banner appears below the word "HOG" and listed inside the banner are the words "HARLEY OWNERS GROUP".		
Goods/Services	Class 035. First use: First Use: 2013/01/00 First Use In Commerce: 2013/01/00 Club services, namely, promoting the interests of motorcyclists and the sport of motorcycling		

Attachments	73840063#TMSN.png(bytes) 85547327#TMSN.png(bytes) 78415181#TMSN.png(bytes) 74555030#TMSN.png(bytes) 75560394#TMSN.png(bytes) 77355716#TMSN.png(bytes) 86591771#TMSN.png(bytes) 86094496#TMSN.png(bytes) Opposition to Panache - 3.25.19.pdf(256855 bytes)
Signature	/Adraea M Brown/
Name	Adraea M Brown
Date	03/25/2019

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

H-D U.S.A., LLC,

Opposer,

v.

Sharon-Kaye Dillard and
Lenecia Harper,

Applicants.

Opposition No. _____



Mark:

Serial No.: 87881714

Application filed: April 18, 2018

NOTICE OF OPPOSITION

H-D U.S.A., LLC, a limited liability company organized and existing under the laws of Wisconsin, believes it is being and will be damaged by Applicants' registration of the mark PANACHÉ S.C. FLAMBOYANT PRESTIGIOUSLY LOYAL & Design, Serial No. 87881714, and hereby opposes the grant of the registration. As grounds for its opposition, H-D U.S.A., LLC hereby alleges:

1. H-D U.S.A, LLC is the owner of the Harley-Davidson portfolio of trademarks and all trademarks asserted in this opposition. H-D U.S.A, LLC licenses the marks for use by its affiliated corporate entities.

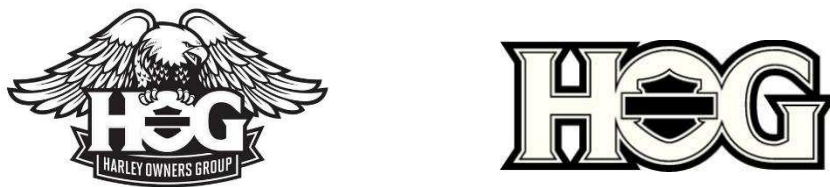
2. H-D U.S.A., LLC, along with its predecessors and affiliated entities (collectively referred to as "Harley-Davidson") is a world-famous manufacturer of motorcycles, motorcycle parts, accessories, and a range of other consumer products including apparel, jewelry, and leather goods.

3. Harley-Davidson has manufactured, advertised, and sold motorcycles since as early as 1903, and Harley-Davidson has used its Bar & Shield logo in connection therewith since at least as early as 1910. Examples of the “Bar & Shield logo” and variations thereof, are depicted below:



4. In addition to its products, Harley-Davidson has sponsored the Harley Owners Group since at least as early as 1983. The Harley Owners Group, referred to as HOG, is one of the largest manufacturer-sponsored motorcycle riding clubs in the world.

5. In connection HOG, Harley-Davidson has used the below “HOG marks” as early as 2013. Summary registration details of relevant Harley-Davidson Bar & Shield logos and HOG marks (collectively referred to as the “Harley-Davidson Marks”) are outlined in Exhibit 1 attached hereto.



6. The HOG marks, which incorporate the Bar & Shield logo, are registered in International Class 35 specifically for use in connection with “club services, namely, promoting the interests of motorcyclists and the sport of motorcycling.”

7. Through extensive marketing, sales, and publicity, the Harley-Davidson Marks have become well-known in the eyes of the public and to the motorcycling community.

8. As a result of Harley-Davidson’s marketing and promotional efforts, as well as its commercial sales and reach, Harley-Davidson has been ranked annually for the past decade among the top 100 most valuable brands in the world by Interbrand, a leading independent branding firm. In 2018, Interbrand ranked Harley-Davidson as having an estimated brand value of \$5,160,000,000.

9. Several adjudicating bodies, including the United States Patent and Trademark Office Trademark Trial and Appeal Board have found that the Harley-Davidson Marks are famous. In *H-D Michigan, LLC v. Broehm*, Opposition No. 91177156 (April 28, 2009), the Board found that “the Bar & Shield logo, regardless of wording and other matter, is itself a famous mark in connection with at least motorcycles, clothing, and headwear.”

10. Applicants filed trademark application Serial No. 87/881,714 on April 18, 2018 in International Class 35 for use in connection with “charitable services, namely, coordination of the procurement and distribution of food, clothing, toiletries, school supplies for the homeless, less fortunate kids and people in need” and in International Class 41 for use in connection with “social club services, namely, arranging, organizing, and hosting social events, get-togethers, and parties for club members.” A visual representation of Applicants’ applied-for mark (“Applicants’ Logo”) is shown below:



11. Applicants' Logo features a Bar & Shield logo which is identical to the ones found in the Harley-Davidson Marks.

12. The services to which Applicants' Logo are intended to be applied and the services which Harley-Davidson uses and has registered its Harley-Davidson Marks, are nearly identical and offered through the same channels of trade to the same consumer base.

13. Upon information and belief, Applicants are consumers of Harley-Davidson's goods and services, particularly given the depiction of a motorcycle image within Applicants' Logo.

14. Upon information and belief, in the motorcycling community, social clubs are organizations that are social in nature but are connected to and/or affiliated with a motorcycle riding club.

15. When Applicants' claimed trademark is applied to their social services, there is a strong likelihood of confusion, mistake, or deception that the ordinary consumer will erroneously believe that Applicants' services either originate from or are sponsored, approved, or licensed by Harley-Davidson.

16. Registration of Applicant's Logo by Applicants is barred by the provisions in Section 2(d) of the Trademark Act of 1946 in that it consists of or comprises a mark which so resembles marks previously registered by Harley-Davidson and which are likely enough to cause confusion, mistake, or deception.

WHEREFORE, Harley-Davidson respectfully requests that this opposition be sustained and that registration of application Serial No. 87881714 be refused.

Date: March 25, 2019

Respectfully submitted,

H-D U.S.A., LLC

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Exhibit 1
Harley-Davidson Marks

Mark	International Class(es)	Registration No.	Registration Date
	8, 9, 11, 12, 14, 16, 18, 20, 21, 24, 25, 26, 27, 28	1,660,539	Nov. 15, 1989
	41, 43	4,221,463	Oct. 9, 2012
	35	3,058,720	Feb. 14, 2006
	42	1,913,992	Aug. 22, 1995
	6, 7, 9, 12, 14, 18	2,376,674	Aug. 15, 2000
	18	3,548,003	Dec. 16, 2008
	35	5,023,464	Aug. 16, 2016
	35	4,951,768	May 3, 2016